

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1079

Introduced by Cornett, 45.

Read first time January 21, 2010

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-202.02, 77-1315, 77-1375, 77-1502, 77-1504, 77-1507,
3 77-1510, 77-5028, and 77-5029, Reissue Revised Statutes
4 of Nebraska; to change the time for appealing to the
5 Tax Equalization and Review Commission as prescribed; to
6 change certain dates relating to property tax assessment
7 and equalization as prescribed; to harmonize provisions;
8 to provide an operative date; and to repeal the original
9 sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-202.02, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-202.02 The county board of equalization, between
4 February 1 and ~~June 1~~ May 20 after a hearing on ten days'
5 notice to the applicant and the publication of notice as provided
6 in section 77-202.01, and after considering the recommendation of
7 the county assessor and any other information it may obtain from
8 public testimony, shall grant or withhold tax exemption for the
9 real property or tangible personal property on the basis of law and
10 of regulations promulgated by the Tax Commissioner.

11 For applications accepted after approval of a waiver
12 pursuant to section 77-202.01, the county board of equalization
13 shall hear and certify its decision on or before August 15.

14 Sec. 2. Section 77-1315, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 77-1315 (1) The county assessor shall, after March 19 and
17 on or before ~~June 1~~, May 20, implement adjustments to the real
18 property assessment roll for actions of the Tax Equalization and
19 Review Commission.

20 (2) On or before ~~June 1~~, May 20, the county assessor
21 shall notify the owner of record as of ~~May 20~~ 10 of every item of
22 real property which has been assessed at a value different than in
23 the previous year. Such notice shall be given by first-class mail
24 addressed to such owner's last-known address. It shall identify the
25 item of real property and state the old and new valuation, the date

1 of convening of the county board of equalization, the dates for
2 filing a protest, and the average level of value of all classes and
3 subclasses of real property in the county as determined by the Tax
4 Equalization and Review Commission.

5 (3) Immediately upon completion of the assessment roll,
6 the county assessor shall cause to be published in a newspaper
7 of general circulation in the county a certification that the
8 assessment roll is complete and notices of valuation changes
9 have been mailed and provide the final date for filing valuation
10 protests with the county board of equalization.

11 (4) The county assessor shall annually, on or before June
12 6, post in his or her office and, as designated by the county
13 board, mail to a newspaper of general circulation and to licensed
14 broadcast media in the county the assessment ratios as found
15 in his or her county as determined by the Tax Equalization and
16 Review Commission and any other statistical measures, including,
17 but not limited to, the assessment-to-sales ratio, the coefficient
18 of dispersion, and the price-related differential.

19 Sec. 3. Section 77-1375, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 77-1375 (1) If improvements on leased land are to be
22 assessed separately to the owner of the improvements, the actual
23 value of the real property shall be determined without regard to
24 the fact that the owner of the improvements is not the owner of the
25 land upon which such improvements have been placed.

1 (2) If the owner of the improvements claims that the
2 value of his or her interest in the real property is reduced by
3 reason of uncertainty in the term of his or her tenancy or because
4 of the prospective termination or expiration of the term, he or she
5 shall serve notice of such claim in writing by certified mail on
6 the owner of the land before January 1 and shall at the same time
7 serve similar notice on the county assessor, together with his or
8 her affidavit that he or she has served notice on the owner of the
9 land.

10 (3) If the county assessor finds, on the basis of the
11 evidence submitted, that the claim is valid, he or she shall
12 proceed to apportion the total value of the real property between
13 the owner of the improvements and the owner of the land as their
14 respective interests appear.

15 (4) The county assessor shall give notice to the parties
16 of his or her findings by certified mail on or before ~~June 1~~ May
17 20.

18 (5) The proportions so established shall continue from
19 year to year unless changed by the county assessor after notice on
20 or before ~~June 1~~ May 20 or a claim is filed by either the owner of
21 the improvements or the owner of the land in accordance with the
22 procedure provided in this section.

23 Sec. 4. Section 77-1502, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 77-1502 (1) The county board of equalization shall meet

1 for the purpose of reviewing and deciding written protests filed
2 pursuant to this section beginning on or after ~~June 1~~ May 20 and
3 ending on or before July 25 of each year. Protests regarding real
4 property shall be signed and filed after the county assessor's
5 completion of the real property assessment roll required by section
6 77-1315 and on or before June 30. For protests of real property,
7 a protest shall be filed for each parcel. Protests regarding
8 taxable tangible personal property returns filed pursuant to
9 section 77-1229 from January 1 through May 1 shall be signed
10 and filed on or before June 30. The county board in a county with a
11 population of more than one hundred thousand inhabitants based upon
12 the most recent federal decennial census may adopt a resolution to
13 extend the deadline for hearing protests from July 25 to August 10.
14 The resolution must be adopted before July 25 and it will affect
15 the time for hearing protests for that year only. By adopting
16 such resolution, such county waives any right to petition the Tax
17 Equalization and Review Commission for adjustment of a class or
18 subclass of real property under section 77-1504.01 for that year.

19 (2) Each protest shall be signed and filed with the
20 county clerk of the county where the property is assessed. The
21 protest shall contain or have attached a statement of the reason or
22 reasons why the requested change should be made and a description
23 of the property to which the protest applies. If the property is
24 real property, a description of each parcel shall be provided. If
25 the property is tangible personal property, a physical description

1 of the property under protest shall be provided. If the protest
2 does not contain or have attached the statement of the reason or
3 reasons for the protest or the description of the property, the
4 protest shall be dismissed by the county board of equalization.

5 (3) No hearing of the county board of equalization on
6 a protest filed under this section shall be held before a single
7 commissioner or supervisor.

8 (4) The county clerk or county assessor shall prepare a
9 separate report on each protest. The report shall include (a) a
10 description of the property to which the protest applies, (b) any
11 recommendation of the county assessor for action on the protest,
12 (c) if a referee is used, the recommendation of the referee, (d)
13 the date the county board of equalization heard the protest, (e)
14 the decision made by the county board of equalization, (f) the date
15 of the decision, and (g) the date notice of the decision was mailed
16 to the protester. The report shall contain, or have attached to
17 it, a statement, signed by the chairperson of the county board of
18 equalization, describing the basis upon which the board's decision
19 was made. The report shall have attached to it a copy of that
20 portion of the property record file which substantiates calculation
21 of the protested value unless the county assessor certifies to the
22 county board of equalization that a copy is maintained in either
23 electronic or paper form in his or her office. One copy of the
24 report, if prepared by the county clerk, shall be given to the
25 county assessor on or before August 2. The county assessor shall

1 have no authority to make a change in the assessment rolls until
2 there is in his or her possession a report which has been completed
3 in the manner specified in this section. If the county assessor
4 deems a report submitted by the county clerk incomplete, the county
5 assessor shall return the same to the county clerk for proper
6 preparation.

7 (5) On or before August 2, or on or before August 18
8 in a county that has adopted a resolution to extend the deadline
9 for hearing protests, the county clerk shall mail to the protester
10 written notice of the board's decision. The notice shall contain
11 a statement advising the protester that a report of the board's
12 decision is available at the county clerk's or county assessor's
13 office, whichever is appropriate, and that a copy of the report may
14 be used to complete an appeal to the Tax Equalization and Review
15 Commission.

16 Sec. 5. Section 77-1504, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 77-1504 The county board of equalization may meet on or
19 after ~~June 1~~ May 20 and on or before July 25, or on or before
20 August 10 if the board has adopted a resolution to extend the
21 deadline for hearing protests under section 77-1502, to consider
22 and correct the current year's assessment of any real property
23 which has been undervalued or overvalued. The board shall give
24 notice of the assessed value to the record owner or agent at his or
25 her last-known address.

1 The county board of equalization in taking action
2 pursuant to this section may only consider the report of the county
3 assessor pursuant to section 77-1315.01.

4 Action of the county board of equalization pursuant to
5 this section shall be for the current assessment year only.

6 The action of the county board of equalization may be
7 protested to the board within thirty days after the mailing of
8 the notice required by this section. If no protest is filed, the
9 action of the board shall be final. If a protest is filed, the
10 county board of equalization shall hear the protest in the manner
11 prescribed in section 77-1502, except that all protests shall be
12 heard and decided on or before September 15 or on or before
13 September 30 if the county has adopted a resolution to extend
14 the deadline for hearing protests under section 77-1502. Within
15 seven days after the county board of equalization's final decision,
16 the county clerk shall mail to the protester written notice of
17 the decision. The notice shall contain a statement advising the
18 protester that a report of the decision is available at the county
19 clerk's or county assessor's office, whichever is appropriate, and
20 that a copy of the report may be used to complete an appeal to the
21 Tax Equalization and Review Commission.

22 The action of the county board of equalization upon a
23 protest filed pursuant to this section may be appealed to the Tax
24 Equalization and Review Commission on or before October 15 or on or
25 before October 30 if the county has adopted a resolution to extend

1 the deadline for hearing protests under section 77-1502.

2 Sec. 6. Section 77-1507, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 77-1507 (1) The county board of equalization may meet at
5 any time for the purpose of assessing any omitted real property
6 that was not reported to the county assessor pursuant to section
7 77-1318.01 and for correction of clerical errors as defined in
8 section 77-128 that result in a change of assessed value. The
9 county board of equalization shall give notice of the assessed
10 value of the real property to the record owner or agent at his or
11 her last-known address. For real property which has been omitted in
12 the current year, the county board of equalization shall not send
13 notice pursuant to this section on or before ~~June 1~~ May 20.

14 Protests of the assessed value proposed for omitted real
15 property pursuant to this section or a correction for clerical
16 errors shall be filed with the county board of equalization within
17 thirty days after the mailing of the notice. All provisions of
18 section 77-1502 except dates for filing a protest, the period for
19 hearing protests, and the date for mailing notice of the county
20 board of equalization's decision are applicable to any protest
21 filed pursuant to this section.

22 (2) The county clerk shall, within seven days after the
23 board's final decision, send:

24 (a) For protested action, a notification to the protester
25 of the board's final action advising the protester that a report

1 of the board's final decision is available at the county clerk's
2 or county assessor's office, whichever is appropriate, and that a
3 copy of the report may be used to complete an appeal to the Tax
4 Equalization and Review Commission; and

5 (b) For protested and nonprotested action, a report to
6 the Property Tax Administrator which shall state the description of
7 the property, the reason such property was not assessed pursuant
8 to section 77-1301, and a statement of the board's justification
9 for its action. A copy of the report shall be available for public
10 inspection in the office of the county clerk.

11 (3) The action of the county board of equalization upon a
12 protest filed pursuant to this section may be appealed to the Tax
13 Equalization and Review Commission within ~~thirty~~ one hundred twenty
14 days after the board's final decision.

15 (4) Improvements to real property which were properly
16 reported to the county assessor pursuant to section 77-1318.01 for
17 the current year and were not added to the assessment roll by the
18 county assessor on or before March 19 shall only be added to the
19 assessment roll by the county board of equalization from ~~June 1~~ May
20 20 through July 25. In counties that have adopted a resolution to
21 extend the deadline for hearing protests under section 77-1502, the
22 deadline of July 25 shall be extended to August 10.

23 Sec. 7. Section 77-1510, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 77-1510 Any action of the county board of equalization

1 pursuant to section 77-1502 may be appealed within one hundred
2 twenty days to the Tax Equalization and Review Commission in
3 accordance with section 77-5013, ~~on or before August 24 or on~~
4 ~~or before September 10 if the county has adopted a resolution to~~
5 ~~extend the deadline for hearing protests under section 77-1502.~~

6 Sec. 8. Section 77-5028, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-5028 After a hearing conducted pursuant to section
9 77-5026, the commission shall enter its order based on information
10 presented to it at the hearing. The order of the commission shall
11 be sent by certified mail to the county assessor and by regular
12 mail to the county clerk and chairperson of the county board on
13 or before May 15 1 of each year or the date determined by the
14 Property Tax Administrator if an extension is ordered pursuant to
15 section 77-1514, unless the offices of the commission are closed,
16 then the order of the commission shall be sent by the end of the
17 next day the commission's offices are open. The order shall specify
18 the percentage increase or decrease and the class or subclass of
19 real property affected or the corrections or adjustments to be made
20 to each parcel of real property in the class or subclass affected.
21 The specified changes shall be made by the county assessor to each
22 parcel of real property in the county so affected.

23 Sec. 9. Section 77-5029, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 77-5029 On or before June 5 of each year, the county

1 assessor of any county adjusted by an order of the commission shall
2 recertify the county abstract of assessment to the Property Tax
3 Administrator. On or before August 1 of each year, the Property Tax
4 Administrator shall certify to the commission that any order issued
5 pursuant to sections 77-5023 to 77-5028 was or was not implemented
6 by the county assessor as of ~~June 1~~ May 20 of each year pursuant
7 to section 77-1315. The Property Tax Administrator shall audit the
8 records of the county assessor to determine whether the orders were
9 implemented.

10 Sec. 10. This act becomes operative on January 1, 2011.

11 Sec. 11. Original sections 77-202.02, 77-1315, 77-1375,
12 77-1502, 77-1504, 77-1507, 77-1510, 77-5028, and 77-5029, Reissue
13 Revised Statutes of Nebraska, are repealed.